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LOK SABHA

The following Bill was introduced in Lok Sabha on the 11th September, 1964:—

BILL NO 57 OF 1964

A Bill further to amend the Wealth-tax Act, 1957.

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Wealth-tax (Amendment) Act, 1964. Short title
and com-
mence-
ment

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

27 of 1957 2 In section 2 of the Wealth-tax Act, 1957 (hereinafter referred to as the principal Act),— Amend-
ment of
section 2

10 (a) for clauses (b), (c) and (d), the following clauses shall be substituted, namely:—

‘(b) “Appellate Tribunal” means the Appellate Tribunal constituted under section 252 of the Income-tax Act;

15 (c) “assessee” means a person by whom wealth-tax or any other sum of money is payable under this Act, and includes—

(i) every person in respect of whom any proceeding under this Act has been taken for the determination of wealth-tax payable by him or by any other person or the amount of refund due to him or such other person;

20 (ii) every person who is deemed to be an assessee under this Act;

(461)

(iii) every person who is deemed to be an assessee in default under this Act;

(ca) "assessment" includes re-assessment;

(d) "assessment year" means the period of twelve months commencing on the 1st day of April every year; 5

(b) in clause (e),—

(i) in sub-clause (ii), for the words "or occupied", the words "and occupied" shall be substituted;

(ii) in sub-clause (v), the words "from the date the interest vests in the assessee" shall be inserted at the end; 10

(c) after clause (h), the following clause shall be inserted, namely:—

'(ha) "Director of Inspection" includes an Additional Director of Inspection, a Deputy Director of Inspection and an Assistant Director of Inspection; 15

(d) for clause (j), the following clause shall be substituted, namely:—

'(j) "Income-tax Act" means the Income-tax Act, 1961; 43 of 1961

(e) after clause (l), the following clauses shall be inserted, namely:— 20

'(la) "Inspector of Wealth-tax" means an Inspector of Income-tax empowered to work as an Inspector of Wealth-tax under section 11A;

(lb) "legal representative" has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 25 5 of 1908. 1908; 25

(f) in clause (m), in sub-clause (ii), for the words "any asset in respect of which wealth-tax is not payable", the words "any property in respect of which wealth-tax is not chargeable" shall be substituted; 30

(g) after clause (o), the following clauses shall be inserted, namely:—

'(oa) "public servant" has the same meaning as in section 21 of the Indian Penal Code; 45 of 1860.

(ob) "regular assessment" means the assessment made 35 under section 16; 35

(h) in clause (q),—

(i) for the words, brackets and figures “clause (11) of section 2”, the word and figure “section 3” shall be substituted;

5 (ii) for the proviso, the following proviso shall be substituted, namely:—

“Provided that—

10 (i) where in the case of an assessee there are different previous years under the Income-tax Act for different sources of income, the valuation date for the purposes of this Act shall be the last day of the last of the previous years aforesaid;

15 (ii) in the case of a person who is not an assessee within the meaning of the Income-tax Act, the valuation date for the purposes of this Act shall be the 31st day of March immediately preceding the assessment year;

20 (iii) where an assessment is made in pursuance of section 19A, the valuation date shall be the same valuation date as would have been adopted in respect of the net wealth of the deceased if he were alive.”;

(i) in clause (s), for the word and figure “section 8”, the words “this Act” shall be substituted.

25 3. In section 3 of the principal Act, for the words “financial year”, the words “assessment year” shall be substituted. Amendment of section 3.

4. In section 4 of the principal Act,—

30 (a) in sub-section (1), for the words beginning with “In computing the net wealth of an individual” and ending with “for the benefit of the individual or his wife or minor child, or”, the following shall be substituted, namely:— Amendment of section 4.

“In computing the net wealth of an individual, there shall be included as belonging to that individual—

(a) the value of assets which on the valuation date are held—

35 (i) by the spouse of such individual to whom such assets have been transferred by the individual, directly or indirectly, otherwise than for adequate consideration or in connection with an agreement to live apart, or

(ii) by a minor child, not being a married daughter, of such individual, to whom such assets have been transferred by the individual, directly or indirectly, otherwise than for adequate consideration, or 5

(iii) by a person or association of persons to whom such assets have been transferred by the individual otherwise than for adequate consideration for the immediate or deferred benefit of the individual, his or her spouse or minor child (not being a 10 married daughter) or both, or”;

(b) for the *Explanation*, the following sub-section and *Explanation* shall be substituted, namely:—

‘(6) For the purposes of this Act, the holder of an impartible estate shall be deemed to be the individual owner 15 of all the properties comprised in the estate.

Explanation.—For the purposes of this section,—

(a) the expression “transfer” includes any disposition, settlement, trust, covenant, agreement or arrangement, and 20

(b) the expression “irrevocable transfer” includes a transfer of assets which, by the terms of the instrument effecting it, is not revocable for a period exceeding six years or during the lifetime of the transferee, and under which the transferor derives no direct 25 or indirect benefit, but does not include a transfer of assets if such instrument—

(i) contains any provision for the re-transfer, directly or indirectly, of the whole or any part of the assets or income therefrom to the transferor, or 30

(ii) in any way gives the transferor a right to re-assume power, directly or indirectly, over the whole or any part of the assets or income therefrom.’

Amendment of section 5.

5. In section 5 of the principal Act,—

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(a) in sub-section (1), in clause (xvii), for the word, figures and letter “Chapter IXA”, the words, brackets and figures “clause (38) of section 2” shall be substituted;

(b) in sub-section (3),—

(i) for the words, brackets and figures "clause (xix), clause (xx)", the words, brackets and figures "and clause (xix)" shall be substituted;

5 (ii) in the proviso, for the words "financial year", the words "assessment year" shall be substituted.

6. In section 6 of the principal Act, in clause (ii), for the words, brackets and figures "sub-section (3) of section 4", the word and figures "section 10" shall be substituted. Amendment of section 6.

16 7. In section 7 of the principal Act,—

(a) in sub-section (1), for the words "The value", the words "Subject to any rules made in this behalf, the value" shall be substituted; Amendment of section 7.

15 (b) in clause (a) of sub-section (2), for the words "the circumstances of the case may require," the words "may be prescribed;" shall be substituted.

8. In section 8 of the principal Act, the following *Explanation* shall be inserted at the end, namely:— Amendment of section 8.

20 "*Explanation.*—For the purposes of this section, the Income-tax Officer having jurisdiction in relation to a person who is not an assessee within the meaning of the Income-tax Act means the Income-tax Officer of the area in which that person resides."

9. After section 8 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 8A.

25 '8A. (1) Notwithstanding anything contained in section 8, the Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one Wealth-tax Officer subordinate to him to another also subordinate to him, and the Board may similarly transfer any case from one Wealth-tax Officer to another: Power to transfer cases.

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35 Provided that nothing in this sub-section shall be deemed to require any such opportunity to be given where the transfer is from one Wealth-tax Officer to another whose offices are situated in the same city, locality or place.

(2) The transfer of a case under sub-section (1) may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Wealth-tax Officer from whom the case is transferred.

Explanation.—In this section, the word “case”, in relation to any person whose name is specified in any order issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order, or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order in respect of any year.’

insertion
of new
section
10A.

10. After section 10 of the principal Act, the following section shall be inserted, namely:—

Directors
of Inspection.

“10A. (1) The Board may empower as many persons as it thinks fit to exercise under this Act the functions of a Director of Inspection.

(2) A Director of Inspection shall perform such functions of any other Wealth-tax authority as may be assigned to him by the Board.”.

Substitution
of new
sections for
section 12.

11. For section 12 of the principal Act, the following sections shall be substituted, namely:—

Inspector
of Wealth-
tax.

“11A. A Commissioner of Wealth-tax may empower any Inspector of Income-tax within the meaning of the Income-tax Act to work as an Inspector of Wealth-tax under any Wealth-tax authority, and when he is so empowered, he shall perform such functions in the execution of this Act as are assigned to him by the said Wealth-tax authority.

Control of
Wealth-
tax author-
ities.

12. (1) Inspecting Assistant Commissioners shall be subordinate to the Commissioner within whose jurisdiction they perform their functions and also to the Director of Inspection.

(2) Wealth-tax Officers shall be subordinate to the Commissioner and the Inspecting Assistant Commissioner within whose jurisdiction they perform their functions and also to the Director of Inspection.

(3) Inspectors of Wealth-tax shall be subordinate to the Wealth-tax Officer or other Wealth-tax authority under whom they are empowered to work and to any other Wealth-tax authority to whom the said officer or other authority is subordinate.

Explanation.—For the purposes of sub-section (1), “Director of Inspection” does not include a Deputy Director of Inspection or an Assistant Director of Inspection; and for the purposes of sub-section (2) of this section and sub-section (2) of section 13, “Director of Inspection” does not include an Assistant Director of Inspection.’

12. Section 13 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

Amendment of section 13.

“(2) Every Wealth-tax Officer employed in the execution of this Act shall observe and follow such instructions as may be issued to him for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions.”.

13. After section 13 of the principal Act, the following section shall be inserted in Chapter III, namely:—

Insertion of new section 13A.

“13A. The Director of Inspection, the Commissioner of Wealth-tax and the Inspecting Assistant Commissioner of Wealth-tax shall be competent to make any enquiry under this Act, and for this purpose shall have all the powers that a Wealth-tax Officer has under this Act in relation to the making of enquiries.”.

Powers of Director of Inspection, Commissioner and Inspecting Assistant Commissioner to make enquiries.

14. In section 14 of the principal Act,—

Amendment of section 14.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Every person, if his net wealth or the net wealth of any other person in respect of which he is assessable under this Act on the valuation date was of such an amount as to render him liable to wealth-tax under this Act, shall, before the 30th day of June of the corresponding assessment year, furnish to the Wealth-tax Officer a return in the pres-

cribed form and verified in the prescribed manner setting forth the net wealth as on that valuation date.”;

(b) in sub-section (2), for the words “the net wealth of any person is of such an amount as to render him liable to wealth-tax under this Act,”, the following shall be substituted, namely:— 5

“any person is assessable under this Act, whether in respect of his net wealth or the net wealth of any other person.”.

Insertion
of new
sections
15A to
15C.

15. After section 15 of the principal Act, the following sections shall be inserted, namely:—

Return by
whom to
be signed.

“15A. The return made under section 14 or section 15 shall be signed and verified—

(a) in the case of an individual, by the individual himself; where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; where the individual is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and where for any other reason it is impossible for the individual to sign the return, by any person competent to act on his behalf; 15

(b) in the case of a Hindu undivided family, by the *karta*, and, where the *karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family; and 20

(c) in the case of a company, by the principal officer thereof. 25

Self as-
sessment

15B. (1) Where a return has been furnished under section 14 or section 15 and the tax payable on the basis of that return exceeds five hundred rupees, the assessee shall pay the tax so payable within thirty days of furnishing the return.

(2) After a provisional assessment under section 15C or a regular assessment under section 16 has been made, any amount paid under sub-section (1) shall be deemed to have been paid towards the provisional assessment or regular assessment, as the case may be. 30

(3) If any assessee fails to pay the tax or any part thereof in accordance with the provisions of sub-section (1), he shall, unless a provisional assessment under section 15C or a regular assessment under section 16 has been made before the expiry of thirty days referred to in that sub-section, be liable, by way of 35

penalty, to pay such amount as the Wealth-tax Officer may direct, so, however, that the amount of penalty does not exceed fifty per cent. of the amount of such tax or part, as the case may be:

5 Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard.

10 15C. (1) The Wealth-tax Officer may, at any time after the receipt of a return made under section 14 or section 15, proceed to make, in a summary manner, a provisional assessment of the tax payable by the assessee, on the basis of his return and the accounts and documents, if any, accompanying it. Provisional assessment.

15 (2) After a regular assessment has been made, any amount paid towards the provisional assessment made under sub-section (1), shall be deemed to have been paid towards the regular assessment; and where the amount paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee.

20 (3) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination, on the merits, of any issue which may arise in the course of the regular assessment.

(4) There shall be no right of appeal against a provisional assessment made under sub-section (1).

25 (5) For the removal of doubts, it is hereby declared that the provisions of section 31 excepting sub-section (6) thereof, and section 32 shall apply in relation to any tax payable in pursuance of a provisional assessment made under this section as if it were a regular assessment under section 16."

16. In section 16 of the principal Act,—

30 (a) in sub-section (1)—

Amend-
ment of
section 16.

(i) for the words and figures "section 14 is complete", the words and figures "section 14 or section 15 is correct and complete" shall be substituted;

35 (ii) for the words "and determine the amount payable by him as wealth-tax", the words "and determine the amount of wealth-tax payable by him or the amount refundable to him on the basis of such return" shall be substituted;

(b) in sub-section (3)—

(i) after the words “any specified points”, the words “and after taking into account all relevant material which the Wealth-tax Officer has gathered” shall be inserted;

(ii) for the words “and determine the amount payable by him as wealth-tax”, the words “and determine the amount of wealth-tax payable by him or the amount refundable to him on the basis of such assessment” shall be substituted;

(c) in sub-section (4), after the words, brackets and figure “under sub-section (2) of that section”, the words and figures “or who has made a return under section 15” shall be inserted;

(d) in sub-section (5), for the words “shall make the assessment to the best of his judgment and determine the amount payable by the person as wealth-tax on the basis of such assessment”, the words “after taking into account all relevant material which he has gathered, shall estimate the net wealth to the best of his judgment and determine the amount of wealth-tax payable by the person or the amount refundable to him on the basis of such assessment” shall be substituted.

Amend-
ment of
section 17.

17. Section 17 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so re-numbered,—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) has reason to believe that by reason of the omission or failure on the part of any person to make a return under section 14 of his net wealth or the net wealth of any other person in respect of which he is assessable under this Act for any assessment year or to disclose fully and truly all material facts necessary for assessment of his net wealth or the net wealth of such other person for that year, the net wealth chargeable to tax has escaped assessment for that year, whether by reason of under-assessment or assessment at too low a rate or otherwise; or”;

(ii) for the words “serve on the assessee”, the words “serve on such person” shall be substituted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

5 “(2) Nothing contained in this section limiting the time within which any proceeding for assessment or re-assessment may be commenced, shall apply to an assessment or re-assessment to be made on such person in consequence of or to give effect to any finding or direction contained in an order under section 23, 24, 25, 27 or 29:

10 Provided that the provisions of this sub-section shall not apply in any case where any such assessment or re-assessment relates to an assessment year in respect of which an assessment or re-assessment could not have been made at the time the order which was the subject matter of the
15 appeal, reference or revision, as the case may be, was made by reason of any provision limiting the time within which any action for assessment or re-assessment may be taken.”

18. For section 18 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 18.

20 “18. (1) If the Wealth-tax Officer, Appellate Assistant Commissioner, Commissioner or Appellate Tribunal in the course of any proceedings under this Act is satisfied that any person—

25 (a) has without reasonable cause failed to furnish the return which he is required to furnish under sub-section (1) of section 14 or by notice given under sub-section (2) of section 14 or section 17, or has without reasonable cause failed to furnish it within the time allowed and in the manner required by sub-section (1) of section 14 or by such notice, as the case may be; or

30 (b) has without reasonable cause failed to comply with a notice under sub-section (2) or sub-section (4) of section 16; or

(c) has concealed the particulars of any assets or furnished inaccurate particulars of any assets or debts;

35 he or it may, by order in writing, direct that such person shall pay by way of penalty—

(i) in the cases referred to in clause (a) in addition to the amount of wealth-tax, if any, payable by him, a sum equal to two per cent. of the tax for every month during

Penalty for failure to furnish returns, to comply with notices and concealment of assets, etc.

which the default continued, but not exceeding in the aggregate fifty per cent. of the tax;

(ii) in the cases referred to in clause (b), in addition to the amount of wealth-tax payable by him, a sum which shall not be less than ten per cent. but which shall not exceed fifty per cent. of the amount of the tax, if any, which would have been avoided if the net wealth as returned by such person had been accepted as the correct net wealth; 5

(iii), in the cases referred to in clause (c), in addition to any wealth-tax payable by him, a sum which shall not be less than twenty per cent. but which shall not exceed one and a half times the amount of the tax, if any, which would have been avoided if the net wealth as returned by such person had been accepted as the correct net wealth. 10

Explanation.—Where the net wealth returned by any person is less than eighty per cent. of the net wealth (hereinafter in this *Explanation* referred to as the correct wealth) as assessed under section 16 or section 17, such person shall, unless he proves that the failure to return the correct wealth did not arise from any fraud or any gross or wilful neglect on his part, be deemed to have concealed the particulars of assets or furnished inaccurate particulars of assets or debts for the purposes of clause (c) of this sub-section. 15 20

(2) No order shall be made under sub-section (1) unless the person concerned has been given a reasonable opportunity of being heard. 25

(3) Notwithstanding anything contained in clause (iii) of sub-section (1), if in a case falling under clause (c) of that sub-section, the minimum penalty imposable exceeds a sum of rupees one thousand, the Wealth-tax Officer shall refer the case to the Inspecting Assistant Commissioner who shall, for the purpose, have all the powers conferred under this section for the imposition of penalty. 30

(4) An Appellate Assistant Commissioner, a Commissioner or the Appellate Tribunal on making an order under this section imposing a penalty, shall forthwith send a copy of the same to the Wealth-tax Officer. 35

(5) No order imposing a penalty under this section shall be passed after the expiration of two years from the date of the

completion of the proceedings in the course of which the proceedings for the imposition of penalty have been commenced.

Explanation.—In computing the period of limitation for the purposes of this section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 39 and any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court shall be excluded.”.

19. After section 19 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
19A.

‘19A. (1) Subject as hereinafter provided, the net wealth of the estate of a deceased person shall be chargeable to tax in the hands of the executor or executors.

Assess-
ment in
the case of
executors.

(2) The executor or executors shall for the purposes of this Act be treated as an individual.

(3) The status of the executor or executors shall for the purposes of this Act as regards residence and citizenship be the same as that of the deceased on the valuation date immediately preceding his death.

(4) The assessment of an executor under this section shall be made separately from any assessment that may be made on him in respect of his own net wealth or on the net wealth of the deceased under section 19.

(5) Separate assessments shall be made under this section in respect of the net wealth as on each valuation date as is included in the period from the date of the death of the deceased to the date of complete distribution to the beneficiaries of the estate according to their several interests.

(6) In computing the net wealth on any valuation date under this section, any assets of the estate distributed to, or applied to the benefit of, any specific legatee of the estate prior to that valuation date shall be excluded, but the assets so excluded shall, to the extent such assets are held by the legatee on any valuation date, be included in the net wealth of such specific legatee on that valuation date.

Explanation.—In this section, “executor” includes an administrator or other person administering the estate of a deceased person.’.

Amend-
ment of
section 21.

20. In section 21 of the principal Act,—

(a) in sub-sections (1), (2) and (4), for the words “on whose behalf”, wherever they occur, the words “on whose behalf or for whose benefit” shall be substituted;

(b) in sub-section (3),—

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(i) the brackets and words ‘(all of which persons are hereinafter in this sub-section included in the term “beneficiary”)’ shall be omitted;

(ii) for the words “on behalf of such beneficiary,” the words “on behalf or for the benefit of such beneficiary,” shall be substituted;

(c) in sub-section (4), after the words “were an individual”, the words “who is a citizen of India and resident in India” shall be inserted;

(d) after sub-section (4), the following sub-section and *Explanation* shall be inserted, namely:—

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‘(5) Any person who pays any sum by virtue of the provisions of this section in respect of the net wealth of any beneficiary, shall be entitled to recover the sum so paid from such beneficiary, and may retain out of any assets that he may hold on behalf or for the benefit of such beneficiary, an amount equal to the sum so paid.

Explanation.—In this section, the term “beneficiary” means any person including a minor, lunatic or idiot on whose behalf or for whose benefit assets are held by any other person.’

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Amend-
ment of
section 22.

21. In section 22 of the principal Act,—

(a) the proviso to sub-section (2) shall be omitted;

(b) after sub-section (2), the following sub-sections shall be inserted, namely:—

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“(3) No person shall be deemed to be the agent of any person residing outside India unless he has had an opportunity of being heard by the Wealth-tax Officer as to his being treated as such.

(4) Any agent, who, as such, pays any sum under this Act, shall be entitled to recover the sum so paid from the person on whose behalf it is paid or to retain out of any moneys that may be in his possession or may come to him

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in his capacity as such agent, an amount equal to the sum so paid.

5 (5) Any agent, or any person who apprehends that he may be assessed as an agent, may retain out of any money payable by him to the person residing outside India on whose behalf he is liable to pay tax (hereinafter in this section referred to as the principal), a sum equal to his estimated liability under this section, and in the event of
10 any disagreement between the principal and such agent or person, as to the amount to be so retained, such agent or person may secure from the Wealth-tax Officer a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount.

15 (6) The amount recoverable from such agent or person at the time of final settlement shall not exceed the amount specified in such certificate, except to the extent to which such agent or person may at such time have in his hands additional assets of the principal.

20 (7) Notwithstanding anything contained in this section, any arrears of tax due from a person residing outside India may be recovered also in accordance with the provisions of this Act from any assets of such person which are or may at any time come within India."

25 22. In section 23 of the principal Act,—

Amend-
ment of
section 23.

(a) in sub-section (1),—

(i) in clause (a), for the words "his net wealth", the words "net wealth" shall be substituted;

30 (ii) in clause (d), after the word "under", the words, figures and letter "section 15B or" shall be inserted;

(iii) in clause (f), for the words, brackets and figures "sub-section (1) of section 46", the word and figures "section 221" shall be substituted, and the word "or" shall be inserted at the end;

35 (iv) after clause (f), the following clauses shall be inserted, namely:—

"(g) objecting to any order made by the Wealth-tax Officer under section 22 treating him as the agent of a person residing outside India; or

(h) objecting to any order of the Wealth-tax Officer under section 35 having the effect of enhancing the assessment or reducing a refund or refusing to allow the claim made by the assessee under the said section; or

(i) objecting to an order of the Wealth-tax Officer imposing a fine under sub-section (2) of section 37;";

(b) after sub-section (5), the following sub-sections shall be inserted, namely:—

"(5A) In disposing of an appeal, the Appellate Assistant Commissioner may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised before the Appellate Assistant Commissioner by the appellant.

(5B) The order of the Appellate Assistant Commissioner disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision."

Amend.
ment of
section 24

23. In section 24 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) An assessee objecting to an order passed by the Appellate Assistant Commissioner under section 18 or section 23 or sub-section (2) of section 37 or to an order passed by the Inspecting Assistant Commissioner under sub-section (3) of section 18, may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him."

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The Wealth-tax Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Appellate Assistant Commissioner has been preferred under sub-section (1) or sub-section (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross objections, verified in the prescribed manner, against any part of the order of the Appellate Assistant Commissioner and such memorandum shall be disposed of by the

Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (1) or sub-section (2).";

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

5 " (3) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross objections after the expiry of the relevant period referred to in sub-section (1) or sub-section (2) or sub-section (2A), if it is satisfied
10 that there was sufficient cause for not presenting it within that period.";

(d) for sub-sections (6), (7) and (8), the following sub-sections shall be substituted, namely:—

15 " (6) (a) Where the appellant objects to the valuation of any property, the Appellate Tribunal may, and if the appellant so requires, shall, refer the question of the disputed value to the arbitration of two valuers, one of whom shall be nominated by the appellant and the other by the respondent, and the Tribunal shall, so far as that question
20 is concerned, pass its orders under sub-section (5) conformably to the decision of the valuers;

Provided that—

25 (i) where the appellant or the respondent does not nominate any valuer within the time specified by the Appellate Tribunal or within such further time as the Appellate Tribunal may allow, the Appellate Tribunal may nominate a valuer on his behalf;

30 (ii) if there is a difference of opinion between the two valuers, the matter shall be referred to a third valuer nominated by agreement, or failing agreement, by the Appellate Tribunal, and the decision of that valuer on the question of valuation shall be final;

35 (iii) where any person has at any time expressed any opinion on the valuation of any property to which the provisions of this clause apply, such person shall not be nominated as a valuer in relation to that property.

(b) The valuers to whom a reference under clause (a) has been made by the Appellate Tribunal shall communicate their decision to the Appellate Tribunal within six

months of the date of such reference or within such further time as the Tribunal may allow:

Provided that if the decision of the valuers is not communicated within the period aforesaid, the Appellate Tribunal may order that the reference made under this sub-section shall be deemed to be withdrawn and proceed to dispose of the case on the evidence before it, including the report of either of the valuers if any such report has been submitted.

(7) The extent to which the costs of arbitration proceedings (including a case where a reference is deemed to be withdrawn) under sub-section (6) shall be borne by the appellant or the respondent shall be at the discretion of the Appellate Tribunal.

(8) The valuers may, in disposing of any matter referred to them for arbitration under this section, hold or cause to be held such enquiry as they think fit and after giving the appellant and the respondent an opportunity of being heard, make such decision as they think fit and shall communicate such decision in writing to the Appellate Tribunal.

(8A) The valuers appointed under this section, while acting as such, shall have all powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

(i) summoning and enforcing the attendance of any person and examining him on oath;

(ii) requiring the discovery and production of documents;

(iii) receiving evidence on affidavit; and

(iv) issuing commission for examination of witnesses or documents.

(8B) Nothing in the Arbitration Act, 1940 shall apply to arbitrations under this section.”;

(e) in sub-section (11), for the words, brackets, figures and letter “sub-sections (5), (7) and (8) of section 5A”, the words, brackets and figures “sub-sections (1), (4) and (5) of section 255” shall be substituted.

24. In section 25 of the principal Act, after sub-section (2), the following sub-sections and *Explanation* shall be inserted, namely:— Amendment of section 25.

5 “(3) No order shall be made under sub-section (2) after the expiry of two years from the date of the order sought to be revised.

10 (4) Notwithstanding anything contained in sub-section (3), an order in revision under sub-section (2) may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.

15 *Explanation.*—In computing the period of limitation for the purposes of sub-section (3), the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 39 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.”

20 25. In section 26 of the principal Act, in sub-section (1), for the words and figures “an order of enhancement made by the Commissioner under section 25”, the words, figures and brackets “an order passed by the Commissioner under section 18 or sub-section (2) of section 25” shall be substituted. Amendment of section 26.

26. In section 27 of the principal Act,—

25 (a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:— Amendment of section 27.

30 “(1) The assessee or the Commissioner may, within sixty days of the date upon which he is served with notice of an order under section 24 or section 26, by application in the prescribed form, accompanied, where the application is made by the assessee, by a fee of rupees one hundred, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order and, subject to the other provisions contained in this section, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such application, draw up a statement of the case and refer it to the High Court.

40 “(2) The Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period specified in sub-section (1), allow it to be presented within a further period not exceeding thirty days.”;

(b) in sub-section (3), for the words "three months", the words "ninety days" shall be substituted;

(c) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) If, on an application made under this section the Appellate Tribunal is of the opinion that, on account of a conflict in the decisions of the High Courts in respect of any particular question of law, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it through its President direct to the Supreme Court.";

(d) in sub-sections (4), (5) and (6), after the words "High Court", the words "or the Supreme Court" shall be inserted;

(e) for subsections (7), (8) and (9), the following sub-section shall be substituted, namely:—

"(7) The costs of any reference to the High Court or the Supreme Court which shall not include the fee for making the reference, shall be in the discretion of the Court.".

Insertion
of new
sections
29A and
29B.

27. After section 29 of the principal Act, the following sections shall be inserted in Chapter VI, namely:—

Tax to be
paid not-
with-
standing
reference,
etc.

29A. Notwithstanding that a reference has been made to the High Court or the Supreme Court, or an appeal has been preferred to the Supreme Court, wealth-tax shall be payable in accordance with the assessment made in the case.

Definition
of High
Court.

29B. In this Chapter, "High Court" means—

(i) in relation to any State, the High Court of that State;

(ii) in relation to the Union territories of Delhi and Himachal Pradesh, the High Court of Punjab;

(iii) in relation to the Union territories of Manipur and Tripura, the High Court of Assam;

(iv) in relation to the Union territory of Andaman and Nicobar Islands, the High Court at Calcutta;

(v) in relation to the Union territory of Laccadive, Minicoy and Amindivi Islands, the High Court of Kerala;

(vi) in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, the High Court at Bombay;

5 (vii) in relation to the Union territory of Pondicherry, the High Court at Madras.

28. For sections 30, 31 and 32 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 30, 31 and 32.

10 "30. When any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under this Act, the Wealth-tax Officer shall serve upon the assessee a notice of demand in the prescribed form specifying the sum so payable. Notice of demand.

15 31. (1) Any amount specified as payable in a notice of demand under section 30 shall be paid within thirty-five days of the service of the notice at the place and to the person mentioned in the notice: When tax, etc. payable and when assessee deemed in default.

20 Provided that, where the Wealth-tax Officer has any reason to believe that it will be detrimental to revenue if the full period of thirty-five days aforesaid is allowed, he may, with the previous approval of the Inspecting Assistant Commissioner, direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of thirty-five days aforesaid, as may be specified by him in the notice of demand.

25 (2) If the amount specified in any notice of demand under section 30 is not paid within the period limited under sub-section (1), the assessee shall be liable to pay simple interest at four per cent. per annum from the day commencing after the end of the period mentioned in sub-section (1):

30 Provided that where as a result of an order under section 23, or section 24, or section 25, or section 26, or section 27, or section 29, or section 35, the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.

35 (3) Without prejudice to the provisions contained in sub-section (2), on an application made by the assessee before the expiry of the due date under sub-section (1), the Wealth-tax

Officer may extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(4) If the amount is not paid within the time limited under sub-section (1) or extended under sub-section (3), as the case may be, at the place and to the person mentioned in the said notice, the assessee shall be deemed to be in default. 5

(5) If in a case where payment by instalments is allowed under sub-section (3), the assessee commits default in paying any one of the instalments within the time fixed under that sub-section, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default. 10

(6) Where an assessee has presented an appeal under section 23, the Wealth-tax Officer may, in his discretion, and subject to such conditions, as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired, as long as such appeal remains undisposed of. 15 20

(7) Where an assessee has been assessed in respect of assets located in a country outside India, the laws of which prohibit or restrict the remittance of money to India, the Wealth-tax Officer shall not treat the assessee as in default in respect of that part of the tax which is attributable to those assets, and shall continue to treat the assessee as not in default in respect of that part of the tax until the prohibition or restriction of remittance is removed. 25

Mode of
recovery.

32. The provisions contained in sections 221 to 227, 229, 231 and 232 of the Income-tax Act and the Second and Third Schedules to that Act and any rules made thereunder shall, so far as may be, apply as if the said provisions were provisions of this Act and referred to wealth-tax and sums imposed by way of penalty, fine and interest under this Act instead of to income-tax and sums imposed by way of penalty, fine and interest under that Act and to Wealth-tax Officer and Commissioner of Wealth-tax instead of to Income-tax Officer and Commissioner of Income-tax. 30 35

Explanation I.—Any reference to section 173 and sub-section (2) or sub-section (6) or sub-section (7) of section 220 of the Income-tax Act in the said provisions of that Act or the rules made thereunder shall be construed as references to sub-section 40

(7) of section 22 and sub-section (2) or sub-section (6) or sub-section (7) of section 31 of this Act respectively.

Explanation II.—The Tax Recovery Officer and the Tax Recovery Commissioner referred to in the Income-tax Act or the rules made thereunder shall be deemed to be the Tax Recovery Officer and the Tax Recovery Commissioner for the purposes of recovery of wealth-tax and sums imposed by way of penalty, fine and interest under this Act.”.

20. Section 34 shall be omitted.

Omission
of section
34.

10 30. After Chapter VII of the principal Act, the following Chapter shall be inserted, namely:—

Insertion
of new
Chapter
VIIA.

“CHAPTER VIIA

REFUNDS

15 34A. (1) Where, as a result of any order passed in appeal or other proceeding (including a rectification proceeding) under this Act, refund of any amount becomes due to the assessee, the Wealth-tax Officer shall, except as otherwise provided in this Act, refund the amount to the assessee without his having to make any claim in that behalf.

Refunds.

20 (2) Where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending and the Wealth-tax Officer is of the opinion that the grant of the refund is likely to adversely affect the revenue, the Wealth-tax Officer may, with the previous approval of the Commissioner, withhold the refund till
25 such time as the Commissioner may determine.

30 (3) Where a refund is due to the assessee in pursuance of an order referred to in sub-section (1) and the Wealth-tax Officer does not grant the refund within a period of six months from the date of such order, the Central Government shall pay to the assessee simple interest at four per cent. per annum on the amount of refund due from the date immediately following the expiry of the period of six months aforesaid to the date on which the refund is granted.

35 (4) Where a refund is withheld under the provisions of sub-section (2), the Central Government shall pay interest at the aforesaid rate on the amount of refund ultimately determined to be due as a result of the appeal or further proceeding for the period commencing after the expiry of six months from the date

of the order referred to in that sub-section to the date the refund is granted.

(5) Where under any of the provisions of this Act, a refund is found to be due to any person, the Wealth-tax Officer, Appellate Assistant Commissioner or Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable under this Act by the person to whom the refund is due, after giving an intimation in writing to such person of the action proposed to be taken under this section.”. 10

Insertion
of new
section
34B.

31. In Chapter VIII of the principal Act, the following section shall be inserted before section 35, namely:—

Transfers
to defraud
revenue
void.

“34B. Where, during the pendency of any proceeding under this Act, any assessee creates a charge on or parts with the possession by way of sale, mortgage, exchange or any other mode of transfer whatsoever, of any of his assets in favour of any other person with the intention to defraud the revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding: 15 20

Provided that such charge or transfer shall not be void if made for valuable consideration and without notice of the pendency of the proceeding under this Act.”.

Substitu-
tion of
new sec-
tion for
section 35.

32. For section 35 of the principal Act, the following section shall be substituted, namely:— 25

Rectifica-
tion of
mistakes.

“35. (1) With a view to rectifying any mistake apparent from the record—

(a) the Wealth-tax Officer may amend any order of assessment or of refund or any other order passed by him;

(b) the Appellate Assistant Commissioner may amend any order passed by him under section 18 or under section 23; 30

(c) the Inspecting Assistant Commissioner may amend any order passed by him under section 18;

(d) the Commissioner may amend any order passed by him under section 18 or under section 25; 35

(e) the Appellate Tribunal may amend any order passed by it under section 18 or under section 24.

5 (2) Where the amount of tax, penalty or interest determined as a result of the first appeal or revision against the order referred to in sub-clause (iii) of clause (m) of section 2 is paid within six months of the date of the order passed in such appeal or revision, the Wealth-tax Officer may, notwithstanding anything to the contrary in this Act, rectify the assessment by allowing a deduction to the extent the tax, penalty or interest so
10 paid stood disallowed therein as if such rectification were rectification of a mistake apparent from the record.

(3) Subject to the other provisions of this section, the authority concerned—

15 (a) may make an amendment under sub-section (1) or sub-section (2) of its own motion; and

(b) shall make such amendment for rectifying any such mistake which has been brought to its notice by the assessee, and where the authority concerned is the Appellate Assistant Commissioner or the Appellate Tribunal, by the Wealth-tax Officer also.
20

(4) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard.
25

(5) Where an amendment is made under this section, an order shall be passed in writing by the Wealth-tax authority concerned or the Tribunal, as the case may be.

30 (6) Where any such amendment has the effect of enhancing the assessment or reducing a refund already made, the Wealth-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 30 and the provisions of this Act shall apply accordingly.
35

(7) No amendment under this section shall be made after the expiry of four years—

40 (a) in the case of an amendment under sub-section (2), from the date of the order passed in the first appeal or revision referred to in that sub-section; and

(b) in any other case, from the date of the order sought to be amended.

(8) Where any matter has been considered and decided in a proceeding by way of an appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any other law for the time being in force, amend the order under this section in relation to any matter other than the matter which has been so considered and decided.” 5

Amend-
ment of
section 36

33. In section 36 of the principal Act,—

(a) in sub-section (1), the words “on conviction before a magistrate,” shall be omitted; 10

(b) in sub-section (2), for the words “punishable with simple imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both”, the following words and proviso shall be substituted, namely:—

“punishable with rigorous imprisonment for a term which may extend to two years: 15

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months.”; 20

(c) after sub-section (2), the following sub-section and proviso shall be inserted, namely:—

“(2A) If a person abets or induces in any manner another person to make and deliver an account, statement or declaration relating to the particulars of any net wealth chargeable to tax which is false and which he either knows to be false or does not believe to be true, he shall be punishable with rigorous imprisonment for a term which may extend to two years: 25

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months.”; 30

(d) for the *Explanation*, the following sub-section shall be substituted, namely:— 35

“(5) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act.”.

34. After section 36 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 36A.

5 “36A. (1) The Central Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the concealment of particulars of net wealth or to the evasion of payment of tax on net wealth, it is necessary or expedient so to do, tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force and also from the imposition of any penalty under this Act on condition of his making a full and true disclosure of the whole circumstances relating to the concealment of particulars of net wealth or evasion of payment of tax on net wealth.

Power to tender immunity from prosecution.

45 of 1860. 10

15 (2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made or from the imposition of any penalty under this Act.

20 (3) If it appears to the Central Government that any person to whom immunity has been tendered under this section has not complied with the condition on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government may record a finding to that effect, and thereupon the immunity shall be deemed to have been withdrawn, and any such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to the imposition of any penalty under this Act to which he would otherwise have been liable.”

25

30

35. For section 37 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 37.

35 “37. (1) The Wealth-tax Officer, Appellate Assistant Commissioner, Commissioner and the Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

Power to take evidence on oath, etc.

5 of 1908.

(a) discovery and inspection;

(b) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;

(c) compelling the production of books of account and other documents; and 5

(d) issuing commissions.

(2) Without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is issued either to attend to give evidence or produce books of account or other documents at a certain place and time, intentionally omits to attend or produce the books of account or documents at the place or time, the authority empowered to issue such summons may impose upon him such fine not exceeding five hundred rupees, as it thinks fit, and the fine so levied may be recovered in the manner provided in Chapter VII of this Act. 15

(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act: 20

Provided that a Wealth-tax Officer shall not—

(a) impound any books of account or other documents without recording his reasons for so doing, or

(b) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Commissioner therefor. 25

(4) Any proceeding under this Act before a wealth-tax authority or the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code.”. 30

45 of 1940,

Insertion
of new
section

37A.

Power of
search and
seizure.

36. After section 37 of the principal Act, the following section shall be inserted, namely:—

“37A. (1) Where the Commissioner, in consequence of information in his possession, has reason to believe that— 35

(a) any person to whom a notice under sub-section (4) of section 16 or a summons under section 37 was issued to

produce, or cause to be produced, any books of account or other documents, has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such notice or summons, or

5 (b) any person to whom a notice or summons as aforesaid has been or might be issued will not, or would not, produce or cause to be produced any books of account or other documents which will be useful for, or relevant to, any proceeding under this Act, or

10 (c) any person is in possession of any articles or things including money disproportionate to his known assets, particulars of which will be useful for, or relevant to, any proceeding under this Act,

15 he may authorise any Inspecting Assistant Commissioner or any Wealth-tax Officer to enter and search, with such assistance as he may deem necessary, any building or place where he has reason to suspect that such books of account, other documents, articles or things including money are kept and if as a result of the search such books of account, other documents, articles or things
20 including money are found, the Inspecting Assistant Commissioner or the Wealth-tax Officer, as the case may be, may—

(i) seize any such books of account or other documents;

(ii) place marks of identification on any such books of account or other documents or make or cause to be made
25 extracts or copies therefrom;

(iii) make a note or an inventory of any articles or things including money found which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.

(2) The books of account or other documents seized under
30 sub-section (1) shall not be retained by the Inspecting Assistant Commissioner or the Wealth-tax Officer for a period exceeding one hundred and eighty days from the date of the seizure unless the reasons for retaining the same are recorded by him in writing and the approval of the Commissioner for such retention is
35 obtained:

Provided that the Commissioner shall not authorise the retention of the books of account and other documents for a period exceeding thirty days after all the proceedings under this Act in respect of the years for which the books of account or other documents are relevant are completed.
40

(3) The person from whose custody any books of account or other documents are seized under sub-section (1) may make copies thereof, or take extracts therefrom, in the presence of the Wealth-tax Officer or any other person authorised by him, at such place and time as the Wealth-tax Officer may appoint in this behalf. 5

(4) If a person legally entitled to the books of account or other documents seized under sub-section (1) objects for any reason to the approval given by the Commissioner under sub-section (2), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or documents. 10

(5) On receipt of the application under sub-section (4), the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit. 15

(6) The provisions of the Code of Criminal Procedure, 1898 5 of 1898, relating to searches shall apply, so far as may be, to searches under sub-section (1) of this section.

(7) The Board may make rules in relation to searches under this section." 20

Amend-
ment of
section 39.

37. To section 39 of the principal Act, the following proviso shall be added, namely:—

"Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be re-opened or that before any order of assessment is passed against him, he be re-heard." 25

Amend-
ment of
section 41.

38. In section 41 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) After a finding of total partition has been recorded by the Wealth-tax Officer under section 20 in respect of any Hindu family, notices under this Act in respect of the net wealth of the Hindu family shall be served on the person who was the last manager of the Hindu family, or, if such person is dead, then on all surviving adults who were members of the Hindu family immediately before the partition." 30 35

Substitu-
tion of
new sec-
tions for
section 44.

39. For section 44 of the principal Act, the following sections shall be substituted, namely:—

5 '44. (1) Any assessee who is entitled to or required to attend before any Wealth-tax authority or the Appellate Tribunal in connection with any proceeding under this Act, except where he is required under this Act to attend in person, may attend by a person who would be entitled to represent him before any income-tax authority or the Appellate Tribunal under section 288 of the Income-tax Act.

(2) Notwithstanding anything in sub-section (1) —

10 (i) no person who has been convicted of an offence connected with any wealth-tax proceeding or on whom a penalty has been imposed under this Act other than a penalty imposed on him under clause (i) or clause (ii) of sub-section (1) of section 18 shall be qualified to represent an assessee under sub-section (1) for such time as the Commissioner may by order determine;

15 (ii) if any person who is not a legal practitioner or a chartered accountant, is found guilty of misconduct in connection with any wealth-tax proceeding by the prescribed authority, the prescribed authority may direct that he shall thenceforth be disqualified to represent an assessee under sub-section (1);

11 of 1922.
34 of 1953.
29 of 1957.
18 of 1958.
25 (iii) no person not qualified to represent an assessee under the Indian Income-tax Act, 1922, the Estate Duty Act, 1953, the Expenditure-tax Act, 1957, or the Gift-tax Act, 1958, shall be entitled to appear on behalf of any assessee under this Act:

Provided that any order or direction under sub-clause (i) or sub-clause (ii) shall be subject to the following conditions, namely:—

30 (a) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard;

35 (b) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the Board to have the order or direction cancelled; and

(c) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.

Agree-
ment for
avoidance
or relief
of double
taxation
with res-
pect to
wealth-
tax.

44A. The Central Government may enter into any agreement with the Government of any reciprocating country for the avoidance or relief of double taxation with respect to wealth-tax payable under this Act and under the corresponding law in force in the reciprocating country and may, by notification in the Official Gazette, make such provision as may be necessary for implementing the agreement. 5

Explanation.—The expression “reciprocating country” for the purposes of this Act means any country which the Central Government may, by notification in the Official Gazette, declare to be 10 a reciprocating country.

Countries
with
which no
agreement
exists.

44B. Where the net wealth of any assessee includes any foreign wealth and he proves that, in respect of such foreign wealth, he has paid in any country, with which there is no reciprocal arrangement under section 44A for the relief or avoid- 15
ance of double taxation, a tax in respect of wealth, under the law in force in that country, he shall be entitled to the deduction from the Indian wealth-tax payable by him of a sum calculated on such doubly taxed foreign wealth at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the 20
Indian rate of tax if both the rates are equal.

Explanation.—In this section—

(1) the expression “Indian wealth-tax” means wealth-tax charged in accordance with the provisions of this Act;

(2) the expression “Indian rate of tax” means the rate 25
determined by dividing the amount of Indian wealth-tax after deduction of any relief due under the provisions of this Act but before the deduction of any relief due under this section by the net wealth;

(3) the expression “rate of tax of the said country” 30
means any tax in respect of wealth, actually paid in the said country, in accordance with the corresponding laws in force in the said country after deduction of all relief due, but before deduction of any relief due in the said country in respect of double taxation, divided by the whole amount of the 35
wealth assessed in the said country;

(4) the expression “foreign wealth” in relation to any assessee means the value of all his assets located in any country outside India as reduced by the value of his debts in that country.’.

40. In section 46 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment of section 46.

5 “(4) The Central Government shall cause every rule made under this Act to be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both
10 Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

15 41. In Part II of the Schedule to the principal Act, for the words, figures, brackets and letters “sections 8, 9, 10 and 12 of the Income-tax Act but without deducting the allowances referred to in paragraph (b) of the proviso to clause (vi) of sub-section (2) of section 10, sub-clause (via) and sub-clause (vib) of sub-section (2) of section 10”,
20 the words, figures, letters and brackets “Chapter IV of the Income-tax Act other than the provisions under heads of income ‘A—Salaries, and ‘E—Capital Gains’ thereof, but without deducting the allowances referred to in sub-section (2) of section 32, section 33 and section 34” shall be substituted.

Amendment of the Schedule.

STATEMENT OF OBJECTS AND REASONS

The Income-tax law has been re-codified in the Income-tax Act, 1961. As the basic pattern of the Wealth-tax law is the same as that of the Income-tax law, it has become necessary to bring the provisions of the Wealth-tax Act, 1957 in line with the scheme of the Income-tax Act, 1961.

Opportunity has been taken to implement the recommendations of the Direct Taxes Administration Enquiry Committee, relating to the Wealth-tax law, which have been accepted by Government, and also to make amendments to the Wealth-tax Act which have been found necessary in the light of the experience gained in the operation of the Act.

The Notes on clauses explain the various provisions of the Bill.

T. T. KRISHNAMACHARI.

NEW DELHI;
The 3rd September, 1964.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF
THE CONSTITUTION OF INDIA

[Copy of letter No. 1/27/64-W.T., dated the 6th September, 1964
from Shri Bali Ram Bhagat, Minister of Planning to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the proposed Bill to amend the Wealth-tax Act, 1957 has recommended under article 117(1) of the Constitution the introduction of the Bill in Lok Sabha, and under article 117(3) of the Constitution its consideration by the Lok Sabha.

Notes on clauses

Clause 2(a) substitutes the existing clauses (b), (c) and (d) of section 2 by new clauses:

(i) New clause (b) brings the definition of "Appellate Tribunal" in line with the definition of the term in section 2(4) of the Income-tax Act, 1961.

(ii) New clause (c) corresponds to section 2(c) of the existing Act but the definition of "assessee" has been made more comprehensive on the lines of section 2(7) of the Income-tax Act, 1961 so as to include all possible categories *e.g.*, persons who are liable to pay wealth-tax on their own net wealth, persons liable to pay wealth-tax on the net wealth of other persons, and persons deemed to be assessee or assessee in default under certain sections of the Act.

(iii) A definition of "assessment" has been inserted by new clause (ca) on the lines of section 2(8) of the Income-tax Act, 1961.

(iv) New clause (d) brings the definition of "assessment year" in line with its definition in section 2(9) of the Income-tax Act, 1961.

Clause 2(b) effects amendments—

(i) in section 2(e) (ii) to clarify that only a building owned and occupied by a cultivator would be excluded from the definition of the term 'assets', and

(ii) in section 2(e) (v) to clarify that the period of six years is to be computed from the date the interest vests in the assessee.

Clause 2(c).—The Director of Inspection is not one of the authorities under the existing Act. The amendment makes the Director of Inspection an authority under the Act and clarifies that the term includes his deputies and assistants also. This is in line with section 2(21) of the Income-tax Act, 1961.

Clause 2(d) substitutes in section 2(j), the reference to the 'Income-tax Act, 1922' by reference to the 'Income-tax Act, 1961'.

Clause 2(e) effects two amendments—

(i) under section 2(1a) a definition of “Inspector of Wealth-tax” has been introduced, as he has been made one of the authorities under the Wealth-tax Act.

(ii) the term ‘legal representative’ has been defined on the lines of section 2(29) of the Income-tax Act, 1961 as in the existing Act there is no definition of the term although it is used in the Act.

Clause 2(f) seeks to clarify that under section 2(m) (ii) debts, which are secured on or relate to any property which is exempt from wealth-tax are not to be deducted in computing the net wealth.

Clause 2(g) introduces—

(i) a definition of ‘public servant’, as the terms has to be defined for the purposes of the Act; and.

(ii) a definition of “regular assessment”, to distinguish such an assessment from a self-assessment and provisional assessment regarding which provisions are being introduced in the Act.

These are in line with sub-sections (37) and (40) of section 2 of the Income-tax Act, 1961.

Clause 2(h) makes the following amendments in section 2(q):—

(i) The reference to section 2(11) of the Income-tax Act, 1922 has been substituted by the reference to section 3 of the Income-tax Act, 1961, and

(ii) The existing proviso has been replaced by a new proviso which expressly stipulates the valuation date to be adopted in the case of a person who is not an assessee under the Income-tax Act, 1961 as also the valuation date in a case where an assessment is to be made on an executor.

Clause 2(i) introduces an amendment in section 2(s) which is consequential to the amendment proposed in clause 9 of the Bill.

Clause 3.—Since the term “assessment year” has been defined in the Act the words “financial year” have been replaced by the words “assessment year” to clarify the intention. This brings the provision in line with section 4 of the Income-tax Act, 1961.

Clause 4(a) amends section 4(1) to make the provisions applicable to either spouse and also clarifies that section 4(1) (a) (ii) applies to indirect transfers, and that the provisions of section 4(1) (a) (iii) would apply to transfers for the deferred benefit of the individual or his or her spouse or minor child. This brings the provisions in line with clauses (iii), (iv) and (v) of section 64 of the Income-tax Act, 1961.

Clause 4(b) effects the following two amendments:—

(i) It introduces section 4(6) which deems the holder of an impartible estate to be the owner of all the properties comprised in the estate. This is in line with section 27(ii) of the Income-tax Act in so far as immovable properties are concerned.

(ii) It substitutes a new *Explanation* for the existing *Explanation* clarifying the types of transfers which would be deemed to be irrevocable.

Clause 5(a) substitutes the reference to “Chapter IXA” of the Income-tax Act, 1922 by reference to section 2(38) of the Income-tax Act, 1961. Other amendments proposed in clause 5(b) are of a consequential nature.

Clause 6 substitutes the reference to section 4(3) of the Income-tax Act, 1922 by reference to section 10 of the Income-tax Act, 1961.

Clause 7(a) clarifies that the market value of an asset for the purposes of section 7(1) of the Act has to be estimated by the Wealth-tax Officer subject to any rules that may be framed.

Clause 7(b) provides that the adjustments contemplated under section 7(2) of the Act would be prescribed under the rules.

Clause 8 inserts an *Explanation* to section 8 of the Act which clarifies that the jurisdiction for wealth-tax purposes in respect of a person who is liable to wealth-tax but is not an assessee within the meaning of the Income-tax Act, will be determined with reference to the area in which that person resides.

Clause 9 introduces new section 8A conferring on the Central Board of Direct Taxes and the Commissioners the power to transfer cases from one Wealth-tax Officer to another. This is in line with section 127 of the Income-tax Act, 1961.

Clause 10 introduces a new section which authorises the Board to empower persons to exercise the functions of a Director of Inspection and defines those functions.

Clause 11 makes the following changes:—

(i) A new section has been inserted which makes an Inspector of Wealth-tax an authority under the Act; and

(ii) The existing provision in relation to the control of wealth-tax authorities has been recast on the lines of section 118 of the Income-tax Act, 1961.

Clause 12 introduces a new provision on the lines of section 119(2) of the Income-tax Act, 1961 making it obligatory on the Wealth-tax Officer to follow the instructions issued by the Director of Inspection, Commissioner and Inspecting Assistant Commissioner within whose jurisdiction he performs his functions.

Clause 13 introduces a new section 13A which specifies the powers of the Director of Inspection, the Commissioner and the Inspecting Assistant Commissioner in relation to the making of enquiries under the Act. This is in line with section 135 of the Income-tax Act, 1961.

Clause 14 substitutes a new sub-section for the existing section 14(1) to make it clear that a person who is liable to tax in respect of the net wealth of any other person has also to file a return of net wealth. This is in line with section 139(1) of the Income-tax Act, 1961. The amendment proposed in section 14(2) is consequential to the one proposed in section 14(1).

Clause 15 introduces—

(i) a new section modelled on section 140 of the Income-tax Act, 1961 which states the position as regards the persons who should sign and verify the returns of net wealth in respect of different kinds of assessee;

(ii) a new section in line with section 140A of the Income-tax Act, 1961, to provide for an assessee paying tax on the basis of a self-assessment made by him where the tax payable on the basis of the return exceeds Rs. 500; and

(iii) a new section 15C on the lines of section 141 of the Income-tax Act, 1961, to provide for the making of a provisional assessment of the tax payable by an assessee on the basis of the return filed by him and the accounts and documents, if any, accompanying the return.

Clause 16.—Sub-clause (a) makes certain drafting changes in section 16(1) of the Act to ensure that the amount of refund, if any, due to the assessee is specified in the assessment order passed on the basis of a return found to be correct and complete.

Sub-clauses (b) and (d) amend sub-sections (3) and (5) of section 16 to clarify that the Wealth-tax Officer shall in framing an assessment consider any material which he might have gathered independently. This is in line with sections 143(3) and 144 of the Income-tax Act, 1961.

Sub-clause (c) makes good an omission by introducing a reference to returns filed under section 15.

Clause 17.—Sub-clause (a). The amendment proposed is consequential to the amendment proposed in section 14.

Sub-clause (b) introduces a new sub-section to clarify that the time limit for initiating proceedings for assessment or re-assessment would not apply to an assessment or re-assessment which is to be made in consequence of or to give effect to any finding or direction contained in an appellate order, or an order passed in reference or revision etc. This provision is in line with section 150 of the Income-tax Act, 1961.

Clause 18 replaces the existing section 18 by a new section to bring its provisions in line with the corresponding provisions in sections 271, 274 and 275 of the Income-tax Act, 1961. The changes proposed are:—

(i) In the existing section 18 only a maximum penalty is specified. The new section lays down both the minimum and maximum penalties for various offences.

(ii) The existing section requires that the Wealth-tax Officer should have the previous approval of the Inspecting Assistant Commissioner for all penalty orders passed by him. Under the new provisions the Inspecting Assistant Commissioner himself will pass orders in cases falling under section 18(1) (c) (concealment of particulars of assets or furnishing inaccurate particulars of assets debts) where the minimum penalty exceeds Rs. 1,000. The need for obtaining the previous approval of the Inspecting Assistant Commissioner where a penalty order is to be passed by the Wealth-tax Officer is dispensed with.

(iii) A presumption is drawn as under the Income-tax Act of wilful concealment (which can be rebutted by the assessee) where the net wealth returned by a person is less than 80 per cent. of the net wealth assessed.

(iv) Orders imposing a penalty normally will have to be passed before the expiration of two years from the date of the completion of the proceedings in the course of which the proceedings for the imposition of the penalty have been commenced.

Clause 19 introduces a new section providing for specific machinery for the assessment of executors in respect of the estate of a deceased person for a period from the date of the death of the deceased till the completion of the administration of the estate. The new section is on the lines of section 168 of the Income-tax Act, 1961.

Clause 20.—*Sub-clauses (a) and (b)* make certain drafting changes to clarify that the provisions of section 21 apply where any assets are held either on behalf of the beneficiary or for the benefit of a beneficiary.

Sub-clause (c) clarifies that the individual referred to in section 21(4) should be a citizen of India and resident in India.

Sub-clause (d) adds a new sub-section which enables the person paying any amount under the provisions of section 21 in respect of the net wealth of any beneficiary to recover the sum so paid from such beneficiary. This is on the lines of section 162(1) of the Income-tax Act, 1961.

Clause 21.—The amendments effected by this clause bring the provisions for the recovery of wealth-tax from a person residing outside India on a line with those of sections 162 and 173 of the Income-tax Act, 1961.

Clause 22.—*Sub-clause (a)* seeks to make the following amendments:—

(i) The word "his" has been omitted from section 23(1) (a) to entitle a person who is assessable in respect of the net wealth of any other person also to file an appeal where an assessment is made on him.

(ii) A right of appeal has been provided against penalties imposed for non-payment of tax due in respect of a self-assessment which is required to be made under section 15B.

(iii) The reference to section 46(1) of the Income-tax Act, 1922, is substituted by reference to section 221 of the Income-tax Act, 1961.

(iv) Additional rights of appeal have been provided against an order of the Wealth-tax Officer treating a person as an agent or a person residing outside India, an order rectifying a mistake under section 35 having the effect of enhancing the tax or reducing a refund or refusing to admit an assessee's claim under the said section, and against an order of the Wealth-tax Officer imposing a fine for non-compliance of a summons issued under section 37. This provision is on the lines of section 246 of the Income-tax Act, 1961.

Sub-clause (b) introduces two new sub-sections (5A) and (5B) in section 23. The new sub-section (5A) is in line with the *Explanation* to section 251 and the new sub-section (5B) is in line with section 250(6) of the Income-tax Act, 1961. The latter sub-section makes an existing practice a requirement under the law.

Clause 23.—Sub-clause (a) substitutes sub-section (1) of section 24 by a new sub-section which confers on the assessee additional rights of appeal against an order passed by the Appellate Assistant Commissioner imposing a penalty under section 18 or a fine under section 37, and against an order passed by the Inspecting Assistant Commissioner imposing a penalty under section 18 of the Act.

Sub-clause (b) introduces a new provision corresponding to section 253(4) of the Income-tax Act, 1961 enabling the assessee or the Wealth-tax Officer to file a memorandum of cross objections in an appeal filed before the Tribunal by the other party.

Sub-clause (c) confers on the Tribunal powers to condone delay in the filing of a memorandum of cross objections. This power is similar to the existing power of the Tribunal to condone delay in filing of appeals and is in line with section 253(5) of the Income-tax Act, 1961.

Sub-clause (d) substitutes new sub-sections (6) to (8B) for the existing sub-sections 6 to 8 in order to bring the provisions relating to valuers in line with the corresponding provision in section 253 (1A) of the Income-tax Act, 1961.

Thus, for instance if the appellant or the respondent does not nominate any valuer as required by the Act within the time allowed by the Tribunal, the Tribunal will be empowered to nominate a valuer on their behalf; and a person who, at any time, has expressed any opinion on the valuation of any property would be debarred from being nominated as a valuer in relation to that property by either of the parties.

As under the Income-tax Act, valuation proceedings under the Wealth-tax Act will be taken out of the purview of the Arbitration Act, 1940. The valuers to whom a reference has been made will have to communicate their decision to the Tribunal within 6 months of the date of reference or within the further period of time allowed by the tribunal; and where the valuers default in making the report, the tribunal can order that the reference made to them shall be deemed to be withdrawn and can proceed to dispose of the case on the evidence before them including the report of either of the valuers if such a report has been submitted.

Sub-clause (e).—In sub-section (11), the reference to sub-sections (5), (7) and (8) of section 5A of the Income-tax Act, 1922

has been substituted by reference to sub-sections (1), (4) and (5) of section 255 of the Income-tax Act, 1961.

Clause 24 introduces two new sub-sections in section 25 to provide that the Commissioner cannot pass an order in revision prejudicial to the assessee after the expiry of two years from the date of the order sought to be revised except where such order is passed in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court. This is in line with sub-sections (2) and (3) of section 263 of the Income-tax Act, 1961.

Clause 25 seeks to amend section 26 whereby an order imposing a penalty passed by the Commissioner under section 18 is made appealable to the Tribunal.

Clause 26.—Sub-clause (a) substitutes the existing sub-sections (1) and (2) of section 27 by new sub-sections. The following changes have been made to bring the provisions in line with those of section 256 of the Income-tax Act, 1961:—

(a) The time within which an application should be made to the Tribunal to refer a question of law to the High Court has been reduced from 90 days to 60 days;

(b) The Tribunal has been required to dispose of the application within 120 days; and

(c) The Tribunal's power to condone delay in entertaining a reference application has been restricted to 30 days.

Sub-clause (b) makes a drafting change of a procedural nature substituting the words '90 days' for '3 months' in section 27(3).

Sub-clause (c) introduces a new provision enabling the Tribunal to refer a question of law direct to the Supreme Court if there is conflict in the decisions of High Courts on that question. This is in line with section 257 of the Income-tax Act, 1961.

Sub-clause (d) applies the procedural provisions of sub-sections (4), (5) and (6) of section 27 to direct reference to the Supreme Court also.

Sub-clause (e).—Sub-sections (7) and (8) of section 27 have been substituted by a new sub-section, modelled on section 260(2) of the Income-tax Act, 1961 to provide that the cost of a reference to the Supreme Court excluding the fee for making the reference shall be in the discretion of that court as in the case of a reference to the High Court.

The existing sub-section (7) is deleted from section 27 as separate provision is made for refunds in the new Chapter VIIA.

Sub-section (9) having become redundant has been deleted.

Clause 27 introduces two new sections 29A and 29B.

The new section 29A provides that tax will be payable according to the assessment made notwithstanding that a reference has been made to the High Court or Supreme Court or an appeal preferred to the Supreme Court. This is in line with section 265 of the Income-tax Act, 1961.

The new section 29B specifies the jurisdiction of High Courts in respect of the various States as well as Union territories. This provision is in line with section 269 of the Income-tax Act, 1961.

Clause 28.—This clause substitutes the existing sections 30, 31 and 32 by new sections.

(i) In section 30, interest, fine or any other sum payable under the Act has also been mentioned. The reference to the time within which the amount due is to be paid has been omitted as the time for payment is prescribed under section 31. The new section is based on section 156 of the Income-tax Act, 1961.

(ii) Section 31 has been redrafted to bring its provisions in line with those of section 220 of the Income-tax Act, 1961. The changes made are :—

(a) For the sake of uniformity the time limit for payment has been specified as 35 days in normal cases. As a measure of safeguard it has been provided that this period may be reduced in cases where it will be detrimental to revenue to allow so much time.

(b) It has been provided that the assessee shall be liable to pay simple interest at 4 per cent. per annum from the date of expiry of the time specified in the notice of demand. If the amount on which the interest is payable is reduced in appeal, etc., the amount of the interest would also be proportionately reduced.

(c) A specific provision has been made authorising the Wealth-tax Officer to extend the time for payment or allow payment by instalments subject to conditions which he may impose.

(iii) Section 32 has been redrafted to apply the provisions of sections 221 to 227, 229, 231 and 232 of the Income-tax Act and the Second and Third Schedules to that Act and the Rules framed

thereunder for recovery of any sums due under the Act. Under the new section a uniform procedure for effecting recovery will be followed in all the States.

Clause 29 omits section 34 as a comprehensive provision in this regard is being introduced in the Income-tax Act.

Clause 30 introduces a new provision on the lines of Chapter XIX of the Income-tax Act, 1961 requiring that if a refund becomes due to an assessee in appeal, etc., the Wealth-tax Officer will refund the amount without the assessee having to make a claim for it. The Wealth-tax Officer has been empowered to withhold refunds or set it off against any amount due from the assessee in certain circumstances. Provision has also been made for payment of interest at the rate of 4 per cent per annum to the assessee if a refund is not granted within the prescribed period or withheld in certain circumstances.

Clause 31 introduces a new section whereby if any assessee creates a charge on or transfers any of his assets to any person with the intention to defraud the revenue such charge or transfer would be void as against the revenue except where the charge or transfer has been made for valuable consideration and without notice of the pendency of the wealth-tax proceeding. The provision is on the lines of section 281 of the Income-tax Act, 1961.

Clause 32 substitutes a new section for the existing section 35 of the Wealth-tax Act and brings the provisions in line with the corresponding provisions of section 154 of the Income-tax Act, 1961. A specific provision is made whereby the amount of tax, penalty or interest determined as a result of the first appeal or revision against the order referred to in section 2(m) (iii) if paid within six months of the date of the appeal or revision order would be allowed as a deduction to the extent such tax, penalty or interest was disallowed in making the assessment by rectification of such assessment as if the rectification was rectification of a mistake apparent from the records.

Clause 33.—Sub-clause (a) omits from section 36(1) the words 'on conviction before a magistrate'. This is in line with section 276 of the Income-tax Act, 1961.

Sub-clause (b) substitutes for the existing punishment provided in section 36(2) of simple imprisonment up to one year or a fine of Rs. 1,000 or both a provision for rigorous imprisonment for a minimum term of 6 months (unless there are adequate reasons to the contrary to be recorded in the judgment) and a maximum term of two years. This is in line with section 277 of the Income-tax Act, 1961.

Sub-clause (c) introduces a new provision making abetment of evasion of wealth-tax an offence punishable with rigorous imprisonment for a minimum period of six months (unless there are adequate reasons to the contrary recorded in the judgment) and a maximum term of two years. This provision is on the lines of section 278 of the Income-tax Act, 1961.

Sub-clause (d) substitutes a new sub-section (5) for the existing *Explanation*.

Under the existing provisions, Presidency Magistrates, Magistrates of the 1st Class and Magistrates of the Second Class specially empowered can take cognizance of offences under the Act. The amendment proposed in this sub-clause omits specially empowered Magistrates of the Second Class.

The changes proposed will bring the provisions in line with sections 278 and 292 of the Income-tax Act, 1961.

Clause 34 introduces a new section 36A empowering the Central Government with a view to obtaining evidence of any person connected with concealment of particulars of net wealth or evasion of payment of tax on the net wealth, to tender to such person immunity from prosecution for any offence as also from the imposition of any penalty under this Act. The tender of immunity can be withdrawn if it appears to the Central Government that the person to whom the immunity was tendered has not complied with the conditions on which such immunity was granted or is wilfully concealing anything or giving false evidence. This is in line with section 291 of the Income-tax Act, 1961.

Clause 35 substitutes a new section for the existing section 37 and vests additional powers in the Wealth-tax Officer, Appellate Assistant Commissioner, Commissioner and the Appellate Tribunal to compel the production of books of accounts and also vests in these authorities the power to impound and retain in their custody such books of accounts or other documents. The authorities empowered to issue summons have also been vested with the powers to impose upon persons who deliberately default from complying with the same a fine not exceeding Rs. 500. It is also provided that any proceeding under the Act before a wealth-tax authority or the Tribunal shall be deemed to be a judicial proceeding for the purposes of section 196 of the Indian Penal Code.

These provisions are in line with sections 131 and 136 of the Income-tax Act, 1961.

Clause 36 introduces a new section on the lines of section 132 of the Income-tax Act enabling the Commissioner of Wealth-tax to authorise under certain circumstances the Inspecting Assistant Commissioner or the Wealth-tax Officer to make a search for any such books of account or documents in any premises and seize them and also to make an inventory of the articles or things (including moneys) so seized. Provision is made for a person objecting to such seizure to make an application to the Board. It is also provided that the Board may make rules relating to searches under this section.

Clause 37 inserts a new proviso to section 39 providing that in the event of one wealth-tax authority being succeeded by another, the assessee may demand that before the proceedings are continued he may be heard again. The provision corresponds to section 129 of the Income-tax Act, 1961.

Clause 38 introduces a new provision on the lines of section 283 of the Income-tax Act, 1961 describing the procedure to be adopted for service of notice where a joint Hindu family is disrupted.

Clause 39 effects the following amendments:—

(i) The proposed new section 44 provides that every person who would be entitled to represent an assessee before an income-tax authority or the Tribunal under section 288 of the Income-tax Act would be entitled to appear in wealth-tax cases also subject to certain exceptions. Those persons who have been convicted of an offence connected with any wealth-tax proceeding or on whom a penalty under section 18(1) (c) has been imposed, and persons who are not qualified to represent an assessee under the Indian Income-tax Act, 1922, the Estate Duty Act, 1953, the Expenditure-tax Act, 1957 or the Gift-tax Act, 1958 would also be disqualified from appearing in wealth-tax cases. It is also provided that such a person is not to be disqualified without being given a reasonable opportunity of being heard, and that he will have a right of appeal to the Board.

(ii) A new section 44A is introduced which empowers the Central Government to enter into an agreement with the Government of any reciprocating country for the avoidance or relief of double taxation with respect to the wealth-tax payable under this Act and under the corresponding law in force in the reciprocating country. This is in line with section 90 of the Income-tax Act, 1961.

(iii) A new section 44B is introduced to provide for unilateral relief being allowed in respect of assessments made under this Act on the foreign wealth of an assessee which may have been doubly taxed consequent to the levy of wealth-tax by a foreign country. This is in line with section 91 of the Income-tax Act, 1961.

Clause 40 seeks to modify the provisions of sub-section 4 of section 46 on the lines of section 296 of the Income-tax Act, 1961.

Clause 41 substitutes the references to sections 8, 9, 10, 12, paragraph (b) of the proviso to section 10(2) (via) and 10(2) (vib) to the corresponding provisions of the Income-tax Act, 1961 namely Chapter IV other than the provisions under heads of income 'A—Salaries and E—Capital gains' and sub-section (2) of section 33 and section 34 respectively.

FINANCIAL MEMORANDUM

The officers who administer the Income-tax Act administer the Wealth-tax Act also. This Bill is, therefore, not likely to involve any additional expenditure for the present.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Board by virtue of the existing powers under section 46 of the Act to frame rules regarding the valuation of assets for purposes of section 7(1) and to prescribe the adjustments in the computation of net wealth made under the provisions of section 7(2) (a).

Clause 36 seeks to introduce a new section 37A vesting in wealth-tax authorities certain powers relating to search and seizure, and it is proposed to vest the Board with the power to make rules in this regard.

Clause 39 seeks to substitute *inter alia* a new section for section 44; the new section 44 enables the Board to prescribe the authority for the purposes of clause (ii) of sub-section (2) of that section.

The matters in respect of which rules will be made are matters of procedure, form or detail.

The delegation of legislative powers is, therefore, of a normal character.

S. L. SHAKDHER,
Secretary.

